

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION October 9, 2007

CRESTMARK BANK,
a Michigan chartered bank,

Plaintiff,

vs.

Case No: 07-12841
Honorable Victoria A. Roberts

GOLDLEAF FINANCIAL SOLUTIONS, INC.,
A Tennessee corporation,

Defendant.

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ORDER DENYING MOTION FOR REMAND

I. INTRODUCTION

This matter is before the Court on Plaintiff's Motion to Remand to Oakland County Circuit Court. The motion is **DENIED**. As requested, Plaintiff stipulated that the cumulative weekly wages of the former Goldleaf employees between their date of hire and the end of the potential application of the non-compete agreements, exceed \$75,000.

II. ANALYSIS

The Court disagrees with Plaintiff's argument that the Court shifted the burden of proof to Plaintiff by requiring it to submit wage information or enter the above stipulation. *See Gafford v. General Elec. Co.*, 997 F.2d 150, 158 (6th Cir. 1993).

The Court is entitled to "rely on affidavits and other 'summary judgment - type'

evidence to ascertain the amount in controversy,” when the amount in controversy is not facially apparent. *Component Mgmt. Servs., Inc. v. Am. II Elec.*, No. 03-1210, 2003 WL 23119152, at *1 (N.D. Tex. Sept. 9, 2003). This necessarily means that discovery is permissible, and may even be mandated, before the question of jurisdiction can be resolved. While this Court may have burdened Plaintiff to produce information which would inevitably have come out during discovery, the burden of proof has not shifted from Plaintiff.

The Court finds that other arguments raised by Plaintiff in its Response to the Order Holding Motion for Remand in Abeyance are unavailing.

III. CONCLUSION

The amount in controversy is established. The Motion to Remand is **DENIED**.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: October 9, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on October 9, 2007.

s/Linda Vertriest
Deputy Clerk